

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROILAND FERNANDEZ-MEDINA,

Plaintiff,

v.

OLIVAREZ,

Defendants.

CASE NO. 3:20-cv-05703-RAJ-JRC

ORDER

Before the Court is defendants' motion to seal the warrant application and affidavit filed as Exhibit 1 to the Declaration of Brennen Johnson in Support of defendants' motion to dismiss. Dkt. 23, 24. Plaintiff has not filed any opposition to the motion. *See* Dkt. Because defendants have shown good cause to protect the information from being disclosed to the public, the Court grants defendants' motion to seal (Dkt. 23). Also pending is defendants' motion to dismiss which is noted for the Court's consideration on February 12, 2021 and will be addressed in a separately filed report and recommendation. *See* Dkt. 21, 31.

The Court will not maintain documents under seal simply because parties have designated it confidential. Rather, there is "a strong presumption in favor of access to court records." *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122 (9th Cir. 2003); *see also* Local

Civil Rule 5(g). Parties who seek to maintain the secrecy of documents related or attached to dispositive motions “must meet the high threshold of showing that ‘compelling reasons’ support secrecy.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (citing *Foltz*, 331 F.3d at 1136); *see also E. & J. Gallo Winery v. Instituut Voor Landbouw- En Visserijonderzoek*, 2018 WL 4090585, at \*1-2 (E.D. Cal. Aug. 27, 2018) (applying the “compelling reasons” standard to a dispositive motion). Those compelling reasons must outweigh the competing interests of the public in having access to the judicial records and understanding the judicial process. *Kamakana*, 447 F.3d at 1178-79. “The mere fact that the production of records may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not, without more, compel the court to seal its records.” *Id.* at 1179 (citation omitted).

A party wishing to file materials under seal is subject to the requirements of Local Civil Rule 5(g), which similarly establishes a “strong presumption of public access to the court’s files.” A party seeking to seal a document must file a motion which includes:

(A) **a certification that the party has met and conferred** with all other parties in an attempt to reach agreement on the need to file the document under seal, to minimize the amount of material filed under seal, and to explore redaction and other alternatives to filing under seal; this certification must list the date, manner, and participants of the conference; [and]

(B) **a specific statement of the applicable legal standard and the reasons for keeping a document under seal**, including an explanation of:

- i. the legitimate private or public interests that warrant the relief sought;
- ii. the injury that will result if the relief sought is not granted; and
- iii. why a less restrictive alternative to the relief sought is not sufficient

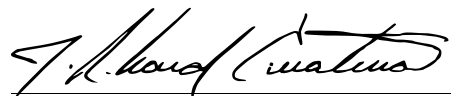
Local Civil Rule 5(g)(3).

Plaintiff is a pretrial detainee and faces prosecution based on his arrest and an undercover investigation. Dkt. 23 at 1-2. The warrant sets forth how plaintiff was engaged in illegal activity

1 and drug trafficking during the course of the investigation. Dkt. 24, Exhibit 1; Dkt. 23 at 2. The  
2 affidavit notes how the warrant application included investigative techniques, means, and  
3 methods. Dkt. 24, Exhibit 1. Plaintiff's arrest implicates not only himself, but others who may be  
4 subject to ongoing investigation. *Id.* at Exhibit 3 at 4, 21. The Pierce County Superior Court has  
5 ordered that the warrant affidavit be sealed. *Id.* at Exhibit 1 at 8. As identified by defendants,  
6 revealing police techniques, means, and methods related to plaintiff's arrest could threaten any  
7 future investigations, undermine ongoing criminal proceedings, contradict state court rules and  
8 decisions on discovery, and compromise the State's interest in investigating drug trafficking and  
9 enforcing its laws. *See* Dkt. 23 at 3-4. Plaintiff has not placed anything before the Court to refute  
10 defendants' contentions. *See* Dkt.

11 Although Defendants acknowledge that they have not met and conferred with plaintiff  
12 prior to filing of the sealed document, they argue such a conference would be meritless and pose  
13 its own concerns in the context of protecting means and methods in a criminal investigation  
14 involving the opposing party. Dkt. 23 at 3. The Court concludes that defendants substantially  
15 comply with Local Rule 5, and there are compelling reasons for maintaining the warrant  
16 application and affidavit under seal. *See* Dkt. 23. Thus, defendants' motion to seal (Dkt. 23) is  
17 granted. The warrant application and affidavit identified as Exhibit 1 to the Declaration of  
18 Brennen Johnson shall remain under seal (Dkt. 24).

19 Dated this 13th day of January, 2021.

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23 J. Richard Creatura  
24 United States Magistrate Judge